

EXHIBIT 4

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
SUCR 071882

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COMMONWEALTH OF MASSACHUSETTS

- vs -

MOTION HEARING
DAY THREE

SHAWN DRUMGOLD

* * * * *

TRANSCRIPT OF PROCEEDINGS

BEFORE: ROUSE, J

July 31, 2003
Boston, Massachusetts

APPEARANCES:

DAVID MEIER, Esquire, Assistant District
Attorney, for the Commonwealth

ROSEMARY SCAPICCHIO, Esquire, for the Defendant

Mary M. Wrighton
Official Court Reporter

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1 Q Okay. And tell the judge about that situation.

2 What happened when the Globe called you?

3 A The Globe called and he said he was doing a story
4 or an investigation on Shawn, that it was going
5 to be coming up to court soon and if I had
6 anything to say about it, so I said, no, I have
7 no comment.

8 Q Then what happened? What's the next thing that
9 had to do with this case? I mean, did you talk
10 to your mother? Did you talk to --

11 A Yes. I told her the Globe called.

12 Q Okay. And what did your mother say?

13 A She was just -- she was upset.

14 Q Then what happened? What was the next thing you
15 did about this case?

16 A Nothing until --

17 Q I'm sorry. What's the next thing that happened
18 to you? I mean, did someone call you? Did
19 someone show up?

20 A A private investigator.

21 Q And how long after you got the phone call from
22 the Globe and you said what you told the judge?
23 How long after that did a private investigator
24 get involved?

1 A I don't know. Maybe a month.

2 Q And tell us about that.

3 A A private eye came by and said that he was a
4 private investigator for Shawn Drumgold so I
5 said, okay, and we had a conversation.

6 Q And do you remember what month that was?

7 A Recently.

8 Q Excuse me?

9 A Recently.

10 Q Okay. If this is July 31, the end of July, do
11 you have any memory? I mean, was it a month ago?
12 Two months ago? Three months ago? During the
13 summertime?

14 A During the summer sometime.

15 Q And did he come to your house?

16 A Yes.

17 Q And what did you tell him? Well, strike that.
18 Let me ask you this, I'm sorry. What did he say
19 to you? I apologize.

20 A He said I didn't have to talk to him and that
21 he's here just trying to get things together for
22 the case that's coming up, talking to old
23 witnesses, see if anybody had anything to say.

24 Q And did you then talk to him?

1 A Yes.

2 Q And what did you tell him?

3 A Basically when I talked to Rosemary, just, you
4 know, that the police were very intimidating,
5 that the picture thing, they showed me the
6 pictures and basically put Shawn's picture out
7 front, and that's about it.

8 Q Can you remember anything more that you told the
9 gentleman you referred to as a private eye about
10 a month ago?

11 A No.

12 Q Is that the same date or was it a different date
13 that you signed a two-page affidavit?

14 A What affidavit?

15 Q Let me, with the Court's permission, show you a
16 document consisting of two pages entitled
17 affidavit of Tracie Peaks. I'd just ask you to
18 look at that. Don't say anything, if you can
19 look at those two pages.

20 Have you had a chance to look at that
21 and --

22 A Yes.

23 Q -- read it? That's the affidavit.

24 A Okay.

1 Q That is your signature, correct?

2 A Yes.

3 Q Yes?

4 A Yes.

5 Q This affidavit, did you sign that affidavit that
6 same day when the private eye came out there or
7 was that a second time?

8 A That was a second time.

9 Q Between the time that you first met with the
10 private eye, the private investigator, and the
11 time you signed this affidavit, how many times
12 had you talked to the private investigator?

13 A Only about twice.

14 Q Excuse me?

15 A Twice.

16 Q You say about twice. Do you mean two times or
17 was it less or was it more or you have no memory?

18 A I think it was twice.

19 Q And so the private investigator -- you get a call
20 from the Globe and you say essentially you're not
21 interested, is that right?

22 A Yes.

23 Q Okay. And sometime after that, a private
24 investigator appears at your door and you tell

1 him some things, is that right?

2 A Yes.

3 Q Okay. Why is it that you spoke to the private
4 investigator but not the Globe?

5 A Because the press can write and do whatever they
6 want to, you know. I felt safer with a private
7 eye than I did with the Globe.

8 Q So you tell the private eye some things and does
9 he come back two times? Does he call you two
10 times?

11 What happens between the first meeting
12 with the private eye and the last meeting when
13 you signed the affidavit?

14 A He just called and said that he would like if I
15 would sign an affidavit saying what I told him
16 and I said yes and then he came back and I signed
17 it, I read it and then I signed it.

18 Q As to the second time, what happened during the
19 second time?

20 A He just came and I met him outside, I signed it,
21 and he left.

22 Q So there were a total of three times?

23 A I met him twice and I talked to him three times.
24 That second time that I talked to him, he called

1 and said that he -- could I sign the affidavit,
2 you know, so I said yes and then that's when he
3 came back with the affidavit so I met him twice,
4 talked to him three times.

5 Q The affidavit that you did sign that I just
6 showed you, that is a copy of the affidavit,
7 correct?

8 A Um-hum.

9 Q You had a chance to read it?

10 A Yes.

11 Q Okay. And is that the original copy or another
12 copy was the one that the man brought to your
13 house and you went outside and read it and you
14 signed it?

15 A I think it was the original copy that he brought
16 me.

17 Q Okay. And when you read it over, someone had
18 typed it or had someone typed it?

19 A Someone typed it.

20 Q Did he tell you who typed it?

21 A No.

22 Q Did you ask him who typed it?

23 A No.

24 Q But you didn't type it?

1 A No.

2 Q When he first came out and spoke to you, was that
3 in person or was that over the phone?

4 A In person.

5 Q And when you talked to him that first time, that
6 would have been before you signed the final
7 affidavit, correct?

8 A Yes.

9 Q And if I were to tell you that the affidavit was
10 signed on May 28 of 2003, about two months ago,
11 how long before you signed the final affidavit
12 was it that you first met with the private
13 investigator?

14 A About two or three weeks.

15 Q Two, three weeks. When he came out, did he write
16 anything down that you said to him?

17 A I believe he was taking notes.

18 Q Okay. And what leads you to believe that he was
19 taking notes?

20 A He had a pen and a pad of paper.

21 Q I'm sorry? Try to keep your voice up.

22 A He had a pen and a pad of paper.

23 Q And did he ask you questions and then you said
24 things to him and then he wrote them down?

1 A I think he just asked me, do I remember what
2 happened, how did it happen, so I just told him
3 what I remembered and he was taking notes.

4 Q When he called you the second time, that's when
5 he said, can I prepare an affidavit or something
6 like that and then I'll bring it over and you can
7 sign it?

8 A Yes.

9 Q Okay. So the only time that you said anything to
10 him, correct me if I'm wrong, the only time that
11 you really talked to him about what you
12 remembered was the very first time he came out,
13 correct?

14 A Yes.

15 Q Okay. And he took down some notes, he wrote them
16 down with a pen on a piece of paper?

17 A Yes.

18 Q And he then left?

19 A Yes.

20 Q And the next time you saw the man was when you
21 met him outside your house and you signed your
22 name to the affidavit, is that right?

23 A Yes.

24 Q Did you read paragraphs one through seven before

1 you signed the affidavit?

2 A Yes.

3 Q In between the time when the man first came out
4 and you talked to him and the time you signed the
5 affidavit, did you talk to the woman you referred
6 to as Rosemary, either in person or over the
7 phone?

8 A I might have. I'm not sure.

9 Q Well, okay. Just think, what leads you to think
10 that you might have?

11 A Because I talked to her a couple times but I
12 don't know, I don't remember what sequence it was
13 or -- I don't remember.

14 Q Well, you testified -- let me ask you this. You
15 remember coming to the grand jury in this case,
16 correct? You actually came to the grand jury?
17 You remember coming to the grand jury and
18 testifying?

19 A Yes.

20 Q And do you remember going into a room, a private
21 room, for lack of a better word, there was no
22 judge there, Mr. Drumgold wasn't there, and a
23 man, a prosecutor, a lawyer working with the
24 police, asked you some questions? Do you